IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.33 OF 2006
WITH
COMPANY APPLICATION NO.34 OF 2006
WITH
COMPANY APPLICATION NO.35 OF 2006
WITH
COMPANY APPLICATION NO.36 OF 2006
WITH
COMPANY APPLICATION NO.37 OF 2006
WITH
COMPANY APPLICATION NO.38 OF 2006
WITH
COMPANY APPLICATION NO.39 OF 2006
WITH
COMPANY APPLICATION NO.40 OF 2006
WITH
COMPANY APPLICATION NO.41 OF 2006
WITH
COMPANY APPLICATION NO.42 OF 2006
WITH
COMPANY APPLICATION NO.43 OF 2006
WITH
COMPANY APPLICATION NO.44 OF 2006
WITH
COMPANY APPLICATION NO.56 OF 2006
WITH
COMPANY APPLICATION NO.57 OF 2006
WITH
COMPANY APPLICATION NO.58 OF 2006
WITH
COMPANY APPLICATION NO.59 OF 2006
WITH
COMPANY APPLICATION NO.60 OF 2006
WITH
COMPANY APPLICATION NO.61 OF 2006
WITH
COMPANY APPLICATION NO.62 OF 2006
WITH
COMPANY APPLICATION NO.63 OF 2006
WITH
COMPANY APPLICATION NO.64 OF 2006
WITH
COMPANY APPLICATION NO.65 OF 2006
WITH
COMPANY APPLICATION NO.66 OF 2006
WITH
COMPANY APPLICATION NO.67 OF 2006

WITH
COMPANY APPLICATION NO.68 OF 2006
IN
COMPANY PETITION NO.672 OF 1996

In the matter of the Companies Act, 1956 :

And

In the matter of N.T.V. Multiwall Paper Bag Company Pvt. Ltd. (In Liquidation)

The Board of Trustees of the Port of Bombay ....Applicants
V/s.
The Official Liquidator, Liquidator of N.T.V. Multiwall Paper Bag Co.Pvt.Ltd. (In Liqn.) ....Opponents

Ms.Priti Shah i/b M/s.Mulla & Mulla & C. B. & C. for the Applicants.

Ms.K.V. Gautam, Deputy Official Liquidator present.

CORAM : S.J. VAZIFDAR, J.
DATED : 24TH FEBRUARY, 2006.

P.C. :

1. These are the applications for leave under Section 446 of the Companies Act to continue the suits filed by the Applicants against the Company in liquidation. Normally leave under Section 446 of the Companies Act ought to be granted. However, in the present company, there are today itself 25 applications under Section 446 of the Companies Act in respect of 25 suits. In a group of Company Applications, the first

of which was Company Application No.621 of 2005 in Company Petition No.349 of 2003, A.M. Khanwilkar, J. on 21st October, 2005 granted leave under Section 446 of the Companies Act subject to the Applicants paying all legal expenses incurred by the Official Liquidator for prosecuting the proceedings. By that order, the Applicants were directed to deposit a sum of Rs.10,000/- in the first instance. The Applicants in the above Company Applications are not willing to deposit any amount in this respect.

2. The Official Liquidator has stated that there are insufficient funds to prosecute so many suits. She further states that in the facts of the present case, it would be an unnecessary s train on the resources of the company if the Official Liquidator were to prosecute all the suits on behalf of the Company.

3. I am inclined to agree with the Official Liquidator in the facts and circumstances of the case. The Official Liquidator has stated that the Applicants' claim in the above suits can be made under Section 528 of the Companies Act. I agree. This course would in fact be less expensive and will not cause as much loss to the Company. This course would benefit the general body of the creditors of the Company.

4. Further if the above suits remain undefended, it would be unfair on the general body of the creditors of the Company.

5. In the circumstances, the leave under Section 446 of the Companies Act is refused. The Applicants shall be at liberty to bring their claim before the Official Liquidator under Section 528 of the Companies Act. Liberty to apply afresh, if necessary.